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SB 52 – Wind/Solar Projects

Opponent Testimony

June 2, 2021

Senate Energy and Public Utilities Committee

Good morning Chairman McColley, Vice Chair Schuring, Ranking Member Williams, and members of the Senate Energy and Public Utilities Committee. My name is Marisa Myers, and I am the Director of Governmental Affairs at the Ohio Township Association. On behalf of the Ohio Township Association (OTA), I appreciate the opportunity to testify before you as an opponent of the current substitute version of Senate Bill 52.

To begin, I would like to acknowledge a few notes. The OTA has appreciated the conversations with the bill sponsors through this process and their willingness to engage with us on behalf of our members. Additionally, the OTA does have members on both sides of this issue, which is a testament both to the diversity of our membership and the complexity of the issue. The OTA does not have a position on the viability of wind and solar projects in Ohio. However, the idea that resonates across our membership is the desire to have more local input on these projects. The question is: **What is the most appropriate way to facilitate this input?** It is on this point that the OTA feels compelled to testify today, as the substitute bill transfers much of this new input away from affected townships and toward the counties.

Let's first take a look at current law and the impact it has on the situation at hand. While counties do not have approval authority over wind and solar projects subject to this bill, they do currently control incentives for these projects – namely, the payments-in-lieu-of-taxes (PILOT) program. During the 128th General Assembly, the Legislature provided tax exemptions for real property and tangible personal property of qualified energy projects (i.e., wind and solar). Under R.C. §5727.75, a project of 20MW or greater may submit an application to the Development Services Agency for a tax exemption. DSA will notify the applicable county, and the board of county commissioners may grant or deny the tax exemption for all political subdivisions in the county. Owners of an approved project would make payments-in-lieu-of-taxes to the local taxing districts based on nameplate capacity. Revenue is allocated by taxable value among taxing jurisdictions. Alternatively, the board of county commissioners may declare the county an Alternative Energy Zone, which creates a blanket approval of the tax exemption and allows the county to collect PILOTs.

The OTA does not have a position on the existence of the PILOT program for wind and solar projects. However, the OTA does object to the approval process for the PILOT and the distribution of revenue generated under current law. As outlined above, the counties are determining for townships - which bear the most significant impact of these projects - the tax incentives that are offered. Additionally, while base payments are split proportionally among taxing jurisdictions, counties are able to add payments (not to exceed \$9,000/MW in total for the project) that go directly to the county's general fund. Therefore, they may have a direct financial incentive to approve incentives for projects (and the projects themselves, under SB 52) over the wishes of township officials and township residents, in some cases.

Simply stated, the PILOT program is very important for many of these projects. It provides a lower and more predictable tax rate, without which many projects would not be financially feasible. Many

projects pending or in existence today have been approved only by county commissioners utilizing the additional PILOT option, *without* the approval of township officials. This current landscape is significant when you consider that the substitute bill is further extending the power of the counties in wind and solar development.

To speak to the substitute bill itself, SB 52 allows a county to designate an energy development district for all or part of the unincorporated area (townships), which would allow for large wind and solar projects. The energy development district would be subject to a referendum. Alternatively, the county may adopt a resolution outright prohibiting large wind and solar projects, which would prevent a developer from filing an application with the Power Siting Board for a certificate. The township(s) that would host the projects would not have authority in either of these processes.

Senate Bill 52 also requires developers to hold a public hearing before applying for a certificate with the Power Siting Board, to present certain information, and to provide notice of the hearing to the county and each affected township. The OTA agrees that providing additional information to the public and local elected officials is helpful. However, after the hearing, with the opportunity allow, prohibit, or limit the boundaries of a proposed project.

Together, these provisions effectively transfer township input to the county for wind and solar projects under the Power Siting Board process – not only for tax incentives, but also general approval of the project location. Again, with townships being the most impacted jurisdiction in wind and solar development, the OTA recommends the following changes:

1. Allow township(s) to be the determining jurisdiction in the newly created processes under the bill or require a county to formally consider township(s) approval or disapproval of a project. There are a number of ways this could be accomplished. For example, after the newly required public hearing, the bill could stipulate that the county shall receive a township(s) resolution in favor of the project within a reasonable time frame; or
2. Allow township(s) to approve PILOTs and/or redirect additional PILOT funds that are currently going to the county to affected township(s) instead.

Again, the OTA does appreciate the efforts of the bill sponsors and recognizes the complexity of this issue. However, we believe these changes largely limit the voice of Ohio townships in favor of counties. While it may be easier to funnel this process through a singular government (a board of county commissioners), the OTA believes this does not accomplish the original goals of SB 52, which was to provide influence in the Power Siting Board process to communities *actually affected* by proposed wind and solar projects.

The OTA appreciates the opportunity to provide comments on SB 52 and urges your consideration of these issues. Mr. Chairman, thank you for the opportunity to testify, and I would be happy to answer any questions that you or committee members may have.